



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 27 2011

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steven Laliberty, President
Countryside Genco, LLC
40 Tower Lane
Avon, CT 06001

Re: Countryside Genco, LLC. Consent Agreement and Final Order

Dear Mr. Laliberty:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Countryside Genco, LLC., CAA Docket No. CAA-05-2011-0056. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on September 27, 2011.

Pursuant to paragraph 31 of the CAFO, Countryside Genco, LLC. must pay the \$46,596 civil penalty within 30 days of the date the CAFO was filed, October 27, 2011. The electronic funds transfer must display the case docket number, CAA-05-2011-0056, and the billing document number, 2751103A055.

Please direct any questions regarding this case to Andre Daugavietis, (312) 886-6663.

Sincerely,

Brent Marable

Chief

Air Enforcement and Compliance Assurance (IL/IN)

Enclosure

cc: Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No.	CAA-05-2011-0056
)		
Countryside Genco, LLC.)	Proceeding to Assess a Civil Penalty	
Grayslake, Illinois)	Under Section 113(d) of the Clean Air Act	
)	42 U.S.C. § 7413(d)	
Respondent.)		
_____)		

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Consent Agreement and Final Order

Preliminary Statement

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Countryside Genco, LLC. (Genco), a limited liability corporation doing business in Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 111 of the CAA, 42 U.S.C. § 7411, requires EPA to implement the New Source Performance Standards (NSPS) program. The NSPS are nationally uniform emission standards for new or modified stationary sources falling within industrial categories that significantly contribute to air pollution.

10. Title V of the CAA, 42 U.S.C. §§ 7661 et seq., established an operating permit program for major sources of air pollution. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the Administrator of U.S. EPA a permit program meeting the requirements of Title V.

11. Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), the Administrator promulgated regulations, subsequently codified at 40 C.F.R. Part 70, providing for the establishment of Title V permitting programs.

12. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

13. Illinois Environmental Protection Agency (IEPA) issued Construction Permit No. 98050077 to Genco. This permit covers the construction and operation of a landfill-gas-to-energy facility.

14. IEPA issued Title V Permit No. 02020063 to Genco on November 25, 2002.

15. Condition 7.1.3(c) of the Genco's Title V Permit provides that the source is subject to the NSPS for Municipal Solid Waste Landfills, 40 C.F.R. Part 60, Subparts A and WWW.

16. NSPS Subpart A, at 40 C.F.R. § 60.11(d), requires that Genco maintain and operate the Facility, as an affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions.

17. Condition 7.1.6(c)(ii) of the Facility's Title V Permit, and Construction Permit No. 98050077, require that emissions of sulfur dioxide from the six landfill gas fired internal combustion engines not exceed 3.12 pounds per hour or 13.7 tons per year.

18. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

19. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

20. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is

appropriate for the period of violations alleged in this CAFO (here March 2009 through November 2010).

Factual Allegations and Alleged Violations

21. Genco operates a landfill-gas-to-energy plant on North Route 83 in Grayslake, Illinois (Facility). This Facility is the primary control device for the Countryside Landfill.

22. Countryside Landfill, the source of landfill gas fuel for Countryside Genco, accepted processed construction and demolition debris from early 2008 through December 2008. This has caused an elevated level of sulfur compounds in the gas emitted from the landfill, including the gas used by the Facility.

23. When sulfur compounds are combusted in air, sulfur dioxide is produced.

24. By combusting at the Facility landfill gas with elevated levels of sulfur compounds, Genco is in violation of Condition 7.1.3(c) of the Facility's Title V Permit and NSPS Subpart A, at 40 C.F.R. § 60.11(d).

25. Genco was out of compliance with the yearly sulfur dioxide emission limits of Condition 7.1.6(c)(ii) of the Facility's Title V Permit, and Construction Permit No. 98050077, for nine months in 2009, and for seven months in 2010 (March 2009 through November 2010).

26. Genco submitted an application to IEPA that modifies the permitted sulfur dioxide emission standards for its Construction Permit in May of 2009. The parties contemplate that the permit will be issued as applied for.

27. Genco's violation of its Title V Operating Permit and Construction Permit constitutes violation of section 502 of the CAA and 40 C.F.R. § 70.7(b).

28. On February 8, 2010, EPA issued Genco a Finding of Violation, Docket No. EPA 5-10-08-IL

29. On May 10, 2011, EPA issued Genco an Administrative Consent Order, Docket No. EPA 5-11-113(a)-IL-06, addressing the violations alleged in the February 2010 Finding of Violation, including enhanced maintenance and monitoring steps.

Civil Penalty

30. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, Genco's cooperation, and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$46,596.

31. Within 30 days after the effective date of this CAFO, Respondent must pay a \$46,596 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Countryside Genco, LLC., the docket number of this CAFO, and the billing document number.

32. Respondent must send a notice of payment that states Countryside Genco, LLC., the docket number of this CAFO, and the billing document number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and to Andre Daugavietis at the following addresses when it pays the penalty:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division

U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Andre Daugavietis (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

33. This civil penalty is not deductible for federal tax purposes.

34. If Respondent does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

35. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

36. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

37. The effect of the settlement herein is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in this CAFO and Respondent's compliance with Administrative Consent Order, Docket No. EPA 5-11-113(a)-IL-06.

38. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

39. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 36, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

40. Respondent certifies that it is in compliance with the terms of the Facility's construction and operating permits issued by IEPA, and with construction permit modifications awaiting approval from IEPA.

41. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

42. The terms of this CAFO bind Respondent, its successors, and assigns.

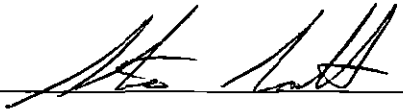
43. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

44. Each party agrees to bear its own costs and attorney's fees in this action.

45. This CAFO constitutes the entire agreement between the parties.

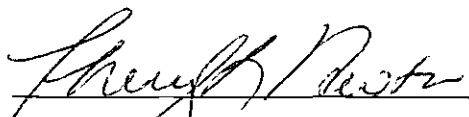
Countryside Genco, LLC. Respondent

9-19-11
Date


Steven Laliberty
President
Countryside Genco, LLC.

United States Environmental Protection Agency, Complainant

9/22/11
Date


Cheryl L. Newton
Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5



Consent Agreement and Final Order

In the Matter of: Countryside Genco, LLC.

Docket No. CAA-05-2011-0056

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-23-11

Date

S. Hedman

Susan Hedman

Regional Administrator

U.S. Environmental Protection Agency

Region 5

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PROTECTION AGENCY

Consent Agreement and Final Order
In the Matter of: Countryside Genco, LLC
Docket No. CAA-05-2011-0056

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I hand delivered the original of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2011-0056 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Countryside Genco, LLC. by placing them in the custody of the United States Postal Service addressed as follows:

Steven Laliberty, President
Countryside Genco, LLC.
40 Tower Lane
Avon, CT 06001

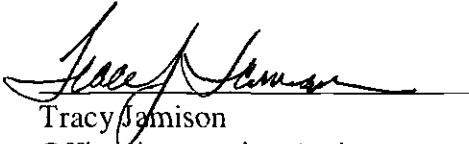
I also certify that a copy of the CAFO was sent by first-class mail to:

Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 63702

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

on the 27 day of September 2011.


Tracy Jamison
Office Automation Assistant
PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7670 4678